

Internal Revenue Service

Department of the Treasury

District
Director

Date: MAY 14 1965

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Gentlemen:

We have considered your application for exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1954.

The information provided shows that you were incorporated on [REDACTED] in the state of [REDACTED].

The organization's Articles of Incorporation do not list the specific purposes for which the organization was formed. The organization's By-Laws, however, state that the organization was formed to establish the association of unit owners required by the [REDACTED] State law; to establish and maintain a social, educational, recreational and area improvement program for unit owners; and, to the extent permitted by law, to levy and collect assessments against members as unit owners in order to provide funds to operate the condominium and to purchase, maintain, repair, replace and restore real and personal property.

The organization maintains the common areas of the condominium, pays water and sewer fees and insurance fees for common areas, and establishes and enforces rules and regulations for unit owners.

The Declaration of Condominium (submitted with Form 1024), item 4, states that common areas and facilities includes roofs, outside walls and perimeter walls of units. Item 10 of the declaration states that common expenses, shared by unit owners, shall include, but not be limited to; cost and management of snow removal; garbage and trash removal; outside building maintenance; and keeping parking lots, access drives and common areas in good repair. Form 1024, Part II, item 10, states that services to be performed will include maintenance of the exterior of units.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of Civic Leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about Civic benefit and society improvement.

Rev. Rul. 74-17, 1974-1 C.B. 130 holds that an organization formed by the unit owner of a condominium development which is operated to provide for the management, maintenance and care of the common areas of the project is not entitled to exemption under section 501(c)(4).

Rev. Rul. 69-280, 1969-1 C.B. 280 holds that an organization which provides for the maintenance of exterior walls and roofs of members' units in a housing development is operated primarily for the private benefit of its members, and is therefore not qualified for exemption under section 501(c)(4).

In the instant case, your membership organization is essentially a mutual, self-interest type of organization. Its income is used to provide direct economic benefits to members; and benefit to the larger community is minor, incidental, or non-existent.

Where the benefit from an organization is limited to that organization's members "except for some minor or incidental benefit to the community as a whole", the organization is not operated exclusively for the promotion of social welfare within the meaning of Section 501(c)(4) of the Code.

Accordingly, since the benefits from your organization are for its members rather than for the community as a whole, the organization does not qualify for exemption from Federal income tax under Section 501(c)(4) of the Code.

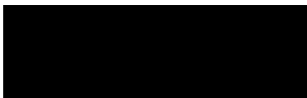
However, it appears that your organization may elect to file under section 528 of the Code to receive certain tax benefits which, in effect, permits exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-II, U.S. Income Tax Return for Homeowners Associations. For more information you may wish to obtain Internal Revenue Service Publication 588. If you do not qualify or elect to file under section 528, you are required to file Federal income tax returns on Form 1120.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time, this determination will become final.

Very truly yours,

A solid black rectangular box used to redact the signature of the District Director.

District Director

Enclosure: Pub. 892